

COMMONWEALTH OF MASSACHUSETTS
UNITED STATES DISTRICT COURT

CIVIL ACTION NO.: 04-11800DPW

ADAM HELFAND, CARON HELFAND, AND MITCHELL HELFAND,)
Plaintiffs)
v.)
THE JOHN DEWEY ACADEMY, INC., THOMAS BRATTER, CAROLE BRATTER, KEN STEINER, AND GWENDOLYN HAMPTON,)
Defendants)

PLAINTIFFS' MOTION TO FILE SECOND AMENDED COMPLAINT

NOW COMES the Plaintiffs, who request that the Court, pursuant to Fed. R. Civ. P. 15 (a) and (c), allow them to amend the Complaint to add an additional claim relating back to the date of the original Complaint. As grounds therefore, the Plaintiffs state the following and submit the attached Memorandum of Law and Second Amended Complaint:

1. The Plaintiffs seek to add a claim of breach of fiduciary trust against the John Dewey Academy and Gwendolyn Hampton.
2. The claim arises out of the same facts and legal issues that form the basis of the existing Complaint, and its inclusion in a Second Amended Complaint will not prejudice the Defendants.
3. The additional claim arises out of a case recently decided by the Supreme Judicial Court, Jane Doe v. Harbor Schools, Inc., 446 Mass. 245 (2006).
4. Fed. R. Civ. P. 15(a) states that "leave [to amend a complaint] shall be freely given when justice so requires."

WHEREFORE, the Plaintiffs request that the Court grant its Motion to Amend the Complaint and accept the attached Second Amended Complaint for filing.

Respectfully submitted,
The Plaintiffs,
Adam Helfand, Caron Helfand, and Mitchell
Helfand,
By their attorneys,

/s/ Djuna E. Perkins

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